

WHAT IS A WATER DISTRICT?

Water districts are local political subdivisions of the state governed by a board of directors. Water districts in Texas derive their authority from the Texas Constitution, Article III, Section 52 or Article XVI, Section 59. The various types of water districts are created by either special law or general law.

General law districts may be created by the Texas Natural Resource Conservation Commission (TNRCC), a county commissioners court, or to a limited extent, the governing board of a city. Special law districts are created by an act of the state legislature.

All water districts must comply with the laws contained in the Texas Water Code and other applicable statutes. General law districts are primarily governed by a specific chapter in the Water Code which describes the powers and duties of that type of district. However, other Water Code chapters also may apply. Special law districts must comply with the act that created them as well as with the Water Code.

River authorities are special law districts that often encompass entire river basins and reach into many counties. Most river authorities operate major reservoirs and sell untreated water on a wholesale basis. They also may have responsibility for flood control, soil conservation and protecting water quality. In addition, river authorities may generate hydroelectric power and develop recreational facilities. River authorities generally lack the power to tax, but may issue revenue bonds based on the sale of water or electric power.

Who Governs Water Districts?

Most districts are governed by a board of directors elected by the voters in the district. Each board member must meet the qualifications for serving as stated in the Texas Water

Code. The board is responsible for all the business of the district, including those functions that are contracted to other parties.

When holding elections for board positions and other issues, districts must follow the Texas Election Code. Special law districts must also follow any specific rules established in the act that created them. If irregularities are suspected, an election contest may be filed with the local District Court within 30 days after the election. The Secretary of State's Office should be contacted at 1-800-252-8683 for help with election-related issues and questions.

Some special law districts are governed by a board appointed by cities or other entities. The board of directors of a river authority may be appointed by the governor, the Texas Water Development Board or the cities that purchase water from the river authority. When creating a general law district, the entity creating the district (the TNRCC or the county commissioners court) will appoint a temporary board of directors to serve until the first elections are held.

Who Regulates Water Districts?

The TNRCC has "continuing right of supervision" over water districts in accordance with the Texas Water Code. Districts also are subject to regulation by state and federal agencies that issue and monitor permits for the various activities of the district.

For example, drinking water quality and wastewater discharges are regulated by the TNRCC and the U.S. Environmental Protection Agency. The Texas Water Code also provides that districts may sue and be sued in a court of appropriate jurisdiction.

What are a Water District's Powers?

While the specific powers of a general law district may be determined by the district type, the powers of a special law district are determined by its enabling legislation. In general, most districts have the following powers:

Power To Incur Debt: Most districts can issue bonds and other forms of debt. The Texas Constitution provides that all debt secured by tax revenues must be approved by the voters in the district. In most cases, bonds secured by tax revenues also must be approved by the TNRCC.

Power To Levy Taxes: When unlimited tax bonds are authorized by voters, a debt service tax to pay the bonds also is approved. After the bonds are issued, the board is obligated each year to levy a property tax that is sufficient to cover the debt. The tax is levied upon all property in the district on an ad valorem basis (based on appraised value) regardless of services received.

A maintenance tax may be levied upon approval by the voters in the district. The maintenance tax rate authorized by voters cannot be exceeded without additional voter approval.

The district must follow the Property Tax Code in levying ad valorem taxes. The Property Tax Code requires that notice of the tax rate be published each year and a public hearing be conducted if the effective tax rate increases more than three percent from the previous year.

Not all districts are given the power to levy taxes. For instance, most river authorities created by special law cannot levy a tax. The Comptroller of Public Accounts, Property Tax Division may be contacted at 1-800-252-9121 for information on ad valorem taxes. The local county appraisal district may also be available to answer questions.

Power to Adopt Rules and Charge for Services: Districts may adopt rules to govern the methods, terms and conditions of service. In most cases, a district can terminate utility services for non-payment of services or other authorized charges. Questions or complaints regarding a district's bills should first be directed to district employees; then, if unresolved, to the district's board of directors.

Authority To Expend Public Funds: Districts can spend public funds for authorized district activities.

Power to Contract: Districts may contract for goods and services. A district must solicit at least three competitive bids for contracts more than \$15,000. For contracts more than \$25,000, a district must advertise for competitive bids. However, state law prohibits a district from considering competitive bids for certain professional services.

Right To Obtain Easements: Districts can obtain and use easements to exercise the right of access to land owned by another person to install, inspect, repair and maintain distribution and collection lines.

Right Of Eminent Domain: Districts have the right of eminent domain to purchase property for district purposes if it is deemed necessary and approved by the board.

How Can the Public Become More Informed About a District?

Notice To Purchaser: In general, this notice requirement pertains to districts that provide utility services or drainage facilities. Sellers of property in those districts must provide certain information to a prospective purchaser when a contract for sale is signed and again upon closing. This information includes the name of the district in which the property is located, the amount of bonds authorized by voters, the amount of tax bonds issued, the current tax rate, the current standby fee and other pertinent information.

These districts also must file the required information with the county clerk. Additionally, the districts must designate an agent who may be contacted for the information included in the notice and must file the name of the designated agent with the TNRCC.

Annual Audited Financial Statements: Financially active districts must have an annual audit performed by an independent auditing firm. Copies of the district's annual audit are filed in the district's office and with the TNRCC. The district's audit report is available for public inspection upon request at the district's office or by calling TNRCC's Central Records at 512/239-6204.

Open Meetings: The best way to be informed about and participate in the business of a district is by attending district board meetings. Districts must comply with the Texas Open Meetings Act. The Act provides that all actions must be voted upon by a quorum of the board in a properly posted open meeting. Districts must adhere to items as posted on the agenda. Although the board is not obligated to open the meeting to additional issues, board members generally are open to providing an opportunity for public comment. Notices of a meeting must be posted in public places for at least 72 hours before the meeting. The law requires strict compliance with this provision, except in cases of emergency. The Texas Water Code may contain additional notice requirements for some districts.

Information about a district's meeting time, date and location can be obtained from the

district's office. A person not knowing the phone number of the district's office may call TNRCC's District Administration Section at 512/239-6170.

Open Records: Districts also must comply with the Texas Open Records Act. Except for specific exemptions, all information maintained by districts is available to the public during normal business hours.

Upon receiving a request for public records, districts shall promptly produce such information for inspection or duplication, or both. The Act does not authorize any person to remove original copies of public records from the office and the district may charge a reasonable fee to research and duplicate public records. A district may require that requests to view or duplicate the records be in writing.

Information:

To receive further information, you may contact:

District Administration Section
Water Utilities Division, MC 152
TNRCC
P.O. Box 13087
Austin, Texas 78711-3087
Or call 512/239-6167.



WATER UTILITIES DIVISION, MC 152
TEXAS NATURAL RESOURCE CONSERVATION COMMISSION
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